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EXAMINER

HWANG, JOON H

ART UNIT PAPER NUMBER

2166

DATE MAILED: 06/14/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/647,672

Applicant(s)

HAN, SHERWIN

Examiner

Joon H. Hwang

Art Unit

2166

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 25 August 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-15 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1 and 3-15 is/are rejected.
- 7) ☒ Claim(s) 2 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

1. The pending claims are 1-15.

Double Patenting

2. The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. A nonstatutory obviousness-type double patenting rejection is appropriate where the conflicting claims are not identical, but at least one examined application claim is not patentably distinct from the reference claim(s) because the examined application claim is either anticipated by, or would have been obvious over, the reference claim(s). See, e.g., *In re Berg*, 140 F.3d 1428, 46 USPQ2d 1226 (Fed. Cir. 1998); *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

3. A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) or 1.321(d) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent either is shown to be commonly owned with this application, or claims an invention made as a result of activities undertaken within the scope of a joint research agreement.

4. Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

5. Claims 1-15 are rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 17, 19, 23, and 27 of U.S. Patent No. 6,611,841. Although the conflicting claims are not identical, they are not patentably distinct from each other because of following reasons:

Claims 17, 19, 23, and 27 of Patent No. 6,611,841 contain(s) every element of claims 1-15 of the instant application and thus anticipate the claim(s) of the instant application. Claims of the instant application therefore are not patently distinct from the earlier patent claims and as such are unpatentable over obvious-type double patenting. A later patent/application claim is not patentably distinct from an earlier claim if the later claim is anticipated by the earlier claim.

"A later patent claim is not patentably distinct from an earlier patent claim if the later claim is obvious over, or anticipated by, the earlier claim. In re Longi, 759 F.2d at 896, 225 USPQ at 651 (affirming a holding of obviousness-type double patenting because the claims at issue were obvious over claims in four prior art patents); In re Berg, 140 F.3d at 1437, 46 USPQ2d at 1233 (Fed. Cir. 1998) (affirming a holding of obviousness-type double patenting where a patent application claim to a genus is anticipated by a 35 patent claim to a species within that genus). " ELI LILLY AND COMPANY v BARR LABORATORIES, INC., United States Court of Appeals for the

Federal Circuit, ON PETITION FOR REHEARING EN BANC (DECIDED: May 30, 2001).

"Claim 12 and Claim 13 are generic to the species of invention covered by claim 3 of the patent. Thus, the generic invention is "anticipated" by the species of the patented invention. Cf., *Titanium Metals Corp. v. Banner*, 778 F.2d 775, 227 USPQ 773 (Fed. Cir. 1985) (holding that an earlier species disclosure in the prior art defeats any generic claim) 4. This court's predecessor has held that, without a terminal disclaimer, the species claims preclude issuance of the generic application. *In re Van Ornum*, 686 F.2d 937, 944, 214 USPQ 761, 767 (CCPA 1982); *Schneller*, 397 F.2d at 354. Accordingly, absent a terminal disclaimer, claims 12 and 13 were properly rejected under the doctrine of obviousness-type double patenting." (*In re Goodman* (CA FC) 29 USPQ2d 2010 (12/3/1993).

Claim Rejections - 35 USC § 102

6. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

7. Claims 1 and 3-15 are rejected under 35 U.S.C. 102(b) as being anticipated by Fujisawa et al. (U.S. Patent No. 5,555,408).

With respect to claim 1, Fujisawa teaches creating reciprocal associations between elements of at least one first memory segment and elements of at least one

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distinct second distinct memory segment to provide: (i) a hierarchical relationship between elements of the at least one first memory segment by traversing the reciprocal associations, and, (ii) a hierarchical relationship between elements of the at least one distinct second memory segment by traversing the reciprocal associations (lines 53-64 in col. 5, lines 43-62 in col. 32, and figs. 3-7 and 15).

With respect to claim 3, Fujisawa teaches retrieving data from the at least one first memory segment based on an input, the retrieved data corresponding to the at least one distinct second memory segment element reciprocally associated with the input and different from the input (line 58 in col. 2 thru line 2 in col. 3, lines 53-64 in col. 5, lines 43-62 in col. 32, and figs. 3-7 and 15).

With respect to claim 4, Fujisawa teaches the input represents language data (lines 15-26 in col. 15, lines 43-62 in col. 32, figs. 3-6, and fig. 16).

With respect to claim 5, Fujisawa teaches the at least one first memory segment includes at least one of: an auditory data segment, a visual data segment, a language data segment, a motion data segment, and a sensory data segment (lines 15-26 in col. 15, lines 43-62 in col. 32, figs. 3-6, and fig. 16).

The limitations of claims 6, 8, and 14 are rejected in the analysis of claim 3 above, and these claims are rejected on that basis.

With respect to claim 7, Fujisawa teaches the input includes at least one of a visual data, an auditory data, a sensor data, and a motion data (lines 15-26 in col. 15, lines 43-62 in col. 32, figs. 3-6, and fig. 16).

With respect to claim 9, Fujisawa teaches the retrieved data includes language data (lines 15-26 in col. 15, lines 43-62 in col. 32, figs. 3-6, and fig. 16).

With respect to claim 10, Fujisawa teaches retrieving data from the at least one first memory segment based on at least two inputs, the at least two inputs being at least two elements of the at least one distinct second memory segment, the retrieved data based on at least one element of the at least one first memory segment reciprocally associated with all of the at least two inputs (abstract, lines 53-64 in col. 5, lines 22-67 in col. 13, lines 1-50 in col. 14, figs. 3-7, fig. 15, fig. 34, and fig. 35).

With respect to claim 11, Fujisawa teaches the retrieved data includes language data (lines 15-26 in col. 15, lines 43-62 in col. 32, figs. 3-6, and fig. 16).

The limitations of claims 12-13 are rejected in the analysis of claim 10 above, and these claims are rejected on that basis.

With respect to claim 15, Fujisawa teaches the retrieved data represents at least one of: an auditory data, a motion data, a sensory data, and a visual data (lines 15-26 in col. 15, lines 43-62 in col. 32, figs. 3-6, and fig. 16).

Allowable Subject Matter

8. Claim 2 is objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims and as well as a terminal disclaimer.

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9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Joon H. Hwang whose telephone number is 571-272-4036. The examiner can normally be reached on 9:30-6:00(M~F).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Hosain T. Alam can be reached on 571-272-3978. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.



Joon Hwang
Patent Examiner
Technology Center 2100

6/9/06